

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Telegate's Proposal for Presubscription)
To "411" Directory Assistance Services)
)
Provision of Directory Listings Information)
Under the Telecommunications Act of 1934,)
As Amended)
)
Telecommunications Relay Services)
And Speech-to-Speech Services for)
Individuals with Hearing and Speech)
Disabilities)

DA 00-930

CC Docket No. 99-273

CC Docket No. 98-67

COMMENTS
OF THE
UNITED STATES TELECOM ASSOCIATION

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SUMMARY

The Commission seeks comment on a proposal by Telegate to require local exchange carriers (LECs) to implement presubscription to the N11 code “411” for directory assistance, and expands the scope of the comments to include all N11 services. USTA assumes that the proposed requirement, if implemented, would apply to all providers of local service and would, of necessity, also apply to both local and long distance Directory Assistance (DA) services. USTA is opposed to the proposal for a number of significant policy, jurisdictional and technical reasons.

The current DA market is already open to competition and experiences hearty competition, contrary to the underlying assumption of Telegate’s request. This is evident by the services offered by the interexchange carriers (IXCs), Internet service providers (ISPs), and facility-based competitive local exchange carriers (CLECs). Also, the Commission has found that competition in the DA market has existed since divestiture.

The telecommunications industry, through the Abbreviated Dialing Ad Hoc Working Group to the North American Numbering Council (NANC) report in 1998, has already provided recommendations to the Commission concerning how N11 codes should be used for information services.

The states already exercise jurisdiction over DA services, and most require local carriers to provide such services to be offered as part of their local service obligations, including requirements for minimum number of DA calls per month without charge and rates and conditions of the service. Many questions concerning potential federal requirements for DA services are raised, including whether the Commission has

jurisdiction over such offerings, the potential disparity between state and federal regulations, quality of service issues, and cost implications.

Technical obstacles would also have to be addressed. Significant among them is the technical feasibility of deploying N11 presubscription by using Signaling System 7 (SS7) network and Advanced Intelligent Network (AIN) features. Network capabilities have not yet been developed to increase the capability of ILEC equal access end offices. Many end offices do not have SS7 connectivity and, therefore, have no access to AIN platform via SS7. Also, numbering resource issues must be considered, implementation of presubscription for carriers, and other technical issues.

Cost of providing presubscribed N11 services would be prohibitive and would create an unwarranted burden on carriers and their customers. Such costs include obtaining AIN functionality, annual recurring costs associated with providing presubscription, explanation of DA presubscription to customers, preselection process, and third party administrators.

Additional policy issues point to rejection of any N11 presubscription requirements. These include problems of parity between ILECs and non-carrier providers of local service and between ILECs and IXC's. The presubscription process poses a whole host of problems for the carriers. USTA strenuously opposes balloting because of the significant problems incurred with inter-LATA balloting. Potential slamming abuses also would impose additional burdens on the local carrier, since customers first turn to their local carrier for help in such instances.

The public benefit from presubscription of N11 services would be slight when compared to the significant problems. For this reason alone, the Commission should reject Telegate's proposal.

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**COMMENTS
OF THE
UNITED STATES TELECOM ASSOCIATION**

The United States Telecom Association (USTA)¹ hereby submits its comments to a proposal by Telegate AG for local exchange carriers (LECs) to implement presubscription to the N11 code "411" for directory assistance. The Common Carrier Bureau sought comments on Telegate's proposal in its Public Notice,² but expanded the scope of the comments to include presubscription to "711" for Telecommunications Relay Service (TRS), as well as 411. The Bureau requested comments on the technical

¹ The United States Telecom Association, formerly the United States Telephone Association, is the nation's oldest trade organization for the local exchange carrier industry. USTA represents more than 1200 telecommunications companies worldwide that provide a full array of voice, data and video services over wireline and wireless networks. USTA members support the concept of universal service and are leaders in the deployment of advanced telecommunications capabilities to American and international markets.

² DA 00-930, April 27, 2000 (Notice).

feasibility and economic viability of imposing a presubscription requirement on LECs for all N11 services.

USTA opposes Telegate's proposal for a number of substantial policy, jurisdictional and technical reasons as more fully set forth below. It is assumed that, if implemented, N11 presubscription would apply to all providers of local exchange service. Thus, the problems outlined herein would prospectively apply to all providers of local exchange service, not only Incumbent Local Exchange Carriers (ILECs).

1. The current Directory Assistance market is already very competitive.

Underlying Telegate's attempt to require presubscription of Directory Assistance (DA) service is the assumption that the DA market is not open to competition. This is clearly not the case. The DA market is already very competitive. The consumer choice for obtaining DA services is much greater than information provided by Telegate. Specifically, services offered by interexchange carriers (IXCs), such as AT&T's 00 dialing and MCI WorldComm's 10 10 9000 dialing, Internet service providers (ISPs) and facility-based competitive local exchange carriers (CLECs) have all been very successful. Such offerings have resulted in a material decline in customer usage of ILECs' 411 services.

Significantly, the Commission has found that competition in the DA market has existed since divestiture.³ The Commission stated that, "The record demonstrates that a variety of alternative providers of OS/DA [Operator Services/Directory Assistance] offer

³ *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Third Report and Order and Fourth Further Notice of Proposed Rulemaking, CC Docket No. 96-98, FCC 99-238, released November 5, 1999, at ¶ 447.

services at comparable cost and quality to those of the incumbents.”⁴ As evidence of the competitive nature of the DA market, the Commission cited the following examples: (a) More than 30 competitive LECs provide their own OS/DA services or resell the services of non-ILECs, according to SBC; (b) in more than 80% of Bell Atlantic’s interconnection agreements, CLECs are providing their own OS/DA services or obtain them from non-ILEC providers; and (c) rural ILECs have obtained OS/DA services from outside sources for many years.⁵

The realities of the DA market and the Commission’s finding should provide a sufficient basis to reject Telegate’s request. The competitive nature of the DA market renders presubscription for 411 services unnecessary for public purposes.

2. The industry has already found and recommended to the Commission that N11 codes should not be used for information services.

In 1997, the Commission declined “...to require LECs to make N11 codes available for information services at this time”⁶ and requested input from the North American Numbering Council (NANC).⁷ Uses in which AIN platforms are used for this purpose do exactly what the Commission was concerned about, *i.e.*, provide an information service. If a call is directed toward a specific carrier due to a service structure such as is contemplated, the carrier receiving the call can do anything it decides to do with the call, and engage in any type of exchange with the customer. There would

⁴ *Id.* at ¶ 446.

⁵ *Id.* at ¶ 447.

⁶ *The Use of N11 Codes and Other Abbreviated Dialing Arrangements*, First Report and Order and Further Notice of Proposed Rulemaking, CC Docket No. 92-105, released February 19, 1997, at ¶ 19 (N11 First Report).

⁷ *Id.* at ¶ 87.

be no assurance that the result would be the provision of directory assistance. It was for these reasons that in the NANC's Abbreviated Dialing Ad Hoc Group Report presented to the NANC in its September 1998 meeting,⁸ that it stated:

Notwithstanding its conclusion that N11 code are not appropriate resources for abbreviated dialing, the Working Group recognizes the value of an easily identified code such as an N11 code and its potential uses. It is suggested that any use associated with this type of code should provide a 'service gateway' capability, linking an end user with a generic application available from any number of service providers. The selection of a specific service provider associated with a given calling line could possibly be accomplished through switched based technology (e.g. routing tables or presubscription) or provided through intelligent network capabilities (e.g. AIN triggers) involving the use of an external database. The use of presubscription, however, may be problematic as it appears inconsistent with Commission rulings which suggest that subscribers have uniform access to services available through N11 codes from all calling lines, not only lines terminated on their own premises. The Working Group noted that many implementation details, marketing issues and potential customer confusion concerns should be addressed before such an N11 'service gateway' approach could be used as a viable abbreviated dialing application.⁹

USTA notes that at the time of the Report, the Ad Hoc Group only considered two N11 codes were considered as candidates for such treatment. Uses such as that proposed by Telegate for the 411 code, and discussed by the Commission in its N11 First Report,¹⁰ would put use of that code squarely within the concerns expressed in the Ad Hoc Group Report. The NANC approved the report for transmittal to the Commission at its September 1998 meeting.¹¹

⁸ *Report and Recommendations of the Abbreviated Dialing Ad Hoc Working Group to the North American Numbering Council (NANC) Regarding Abbreviated Dialing Arrangements*, September 15, 1998 (Abbreviated Dialing Report) at ¶ 7.1.

⁹ Abbreviated Dialing Report at 11, ¶ 7.1 "N11 CODES" (footnote omitted).

¹⁰ N11 First Report at ¶¶ 47-48. In its conclusion, the Commission limited its findings to equality.

¹¹ North American Numbering Council Meeting Minutes – Final September 22-23, 1998, page 12 J. Abbreviated Dialing Working Group Final Report.

3. The states already exercise jurisdiction over Directory Assistance services.

Most states require local carriers to provide local DA services as part of their local service obligations. This normally includes the requirement to provide such service, the conditions of service, and the rates for the offering. Included in this obligation may be the requirement to offer a minimum number of DA calls per month to each customer without additional charge. The provision of local DA service and the rates and conditions are regulated by the state public service commissions, in most instances.

Critical issues are raised by the Commission's consideration of adopting federal requirements for DA services. First, the question of whether the Commission even has jurisdiction over an offering that is already regulated by the states must be considered. This situation is complicated by the fact that it may be difficult, if not impossible, to separate local 411 service from interstate 411 service technically. If calls cannot be separated, then the Commission would be preempting the states' jurisdiction over a local service offering. This difficulty is further highlighted by the fact that the Commission has recognized that 411 "has long been assigned for access to local directory assistance services."¹²

Second, federal regulation would surely result in regulatory disparity between existing local requirements and newly prescribed federal obligations. This would create an especially difficult situation for both carriers and consumers if the Commission had no preemptive authority over the local 411 offerings. Such a situation could result in two different sets of technical and policy requirements that might well be impossible for carriers to follow. This situation is further complicated by the fact that local DA has

¹² NII First Report at ¶ 47.

traditionally been obtained by the customer dialing 411 and provided by the LEC serving that customer, while long distance DA has been obtained by the customer dialing NPA-555-1212 and provided by the customer's presubscribed long distance carrier. The regulation governing the selection of the carrier and the provision of the particular DA service has, likewise, been divided by these two types of DA services. However, the Telegate proposal raises the inequitable situation that these dialing patterns could be treated differently.

Third, quality of service issues would likely result and would have to be resolved. Included are such local requirements as required answer times and number of free calls per month. In addition, customers would likely direct any DA problems they experience to their local exchange carrier for resolution. However, if the ILEC is not that customer's presubscribed DA provider, it would have no ability to resolve the problem.

Fourth, presubscription would have cost implications for both the local carrier and ultimately the customer. Expenses associated with the introduction of presubscription would have to be reflected in an intrastate revenue requirement that would have to be borne by local ratepayers. These cost factors are more fully discussed in Section (5) below.

4. Significant technical obstacles would have to be overcome for local carriers to provide presubscribed N11 services.

Telegate contends that presubscription of 411 is technically feasible by using the Signaling System 7 (SS7) network and the Advanced Intelligent Network (AIN) features that it claims are already deployed nationwide.¹³ USTA takes exception to Telegate's

¹³ Public Notice at 2.

unfounded representations. The required capabilities of the network for N11 presubscription are far more extensive, complicated and expensive than Telegate claims.

For each presubscribed N11 service, the carrier must have a specified capability installed in its network. For 411 service, AIN functionality or some alternative would be required. The ILECs' equal access end offices have two presubscribed assignments, *i.e.*, for inter-LATA and intra-LATA toll. Network capabilities have not yet been developed to increase the capability. In addition, many end offices do not have SS7 connectivity and, therefore, have no access to an AIN platform via SS7. Whatever switch feature capabilities are necessary, rating standards and routing standards would have to be developed by an appropriate standards body. Then, the vendor community would have to develop the appropriate switch features. Until those standards are implemented, conditions of disparity would also have to be addressed. Separate capabilities would have to be developed for each N11 service for which the Commission orders presubscription.

Numbering resource issues must also be considered. These include whether N11 codes are available to all customers, regardless of their location, whether N11 codes could be presubscribed nationwide for the same provider, and whether N11 codes are better suited for local services.

Implementation of presubscription would impose a significant number of technical burdens upon the carrier. These include service order processing, conducting a balloting or similar process, verification of customer selection, and processing customer change requests.

Additional technical issues must be considered, such as whether databases that currently exist are capable of table look-up functionality for access to multiple providers, such as TRS.

5. The costs of providing presubscribed N11 services would be prohibitive and would create an unwarranted burden on carriers and customers.

Assuming that a carrier is technically able to provide presubscribed N11 services, substantial costs would be incurred by the carrier that will ultimately have to be borne by the customer. Telegate contends that these costs would be less than \$23 million for implementation and \$7.1 million in annual expense, thereby making 411 presubscription “economically viable.”¹⁴ USTA strongly takes exception to the amounts offered by Telegate and is certain that the costs would be substantially greater, thereby creating an unwarranted burden on the carriers and their customers.

A significant number of USTA members do not have AIN functionality installed in their networks. Assuming that AIN capability is necessary for 411 presubscription, those substantial costs would have to be incurred by the local carrier. Even if non-AIN solutions were to be implemented, they would have a significant adverse financial impact on the carriers.

Annual recurring costs associated with providing presubscription 411 would be incurred by carriers. These include maintaining each customer’s DA presubscription data, database query charges to route calls to the appropriate DA provider, populating external DA databases with the carrier’s customer DA information, and modifying existing legacy systems to accommodate 411 presubscription. Local carriers would also

¹⁴ *Id.* at 3.

experience increased costs associated with customer service contacts regarding assistance with repair and billing.

Carriers would also have to bear the cost of explaining DA presubscription to customers, balloting customers for presubscription, and of third party database administrators to ensure that 411 traffic is routed to the appropriate DA.

All of these costs for 411 presubscription would have to be separately incurred for each N11 service for which the Commission ordered presubscription. The enumerated costs, taken together, just for 411 amount to a substantial revenue requirement for the carriers that must be weighed against the public benefit. USTA believes that such an analysis leads to the obvious conclusion that N11 presubscription is neither cost effective nor publicly viable. However, in the event that the Commission were to impose any type of N11 presubscription, an adequate, timely and expedient cost recovery mechanism must be adopted by the Commission.

6. Significant additional policy issues must be considered that support rejection of N11 presubscription.

A number of important policy issues must be fully analyzed regarding N11 presubscription that point to the inescapable conclusion that the Telegate proposal is ill-founded and should be abandoned. These issues include the following:

a. Parity between ILECs and non-carrier N11 providers

As discussed in Section 2 above, ILECs are obligated to provide local DA service and specific features in connection with that service, such as free call allowances, speed of answer performance and rate regulation. Also, ILECs have carrier of last resort obligations, which include DA service. Furthermore, unlike non-carriers such as

Telegate, ILECs must forecast traffic volumes and take other steps, including operator staffing, to meet their obligations.

Non-carrier providers of DA either should be required to meet the same level of service standards and be subject to the same regulations that the ILECs are, or the ILECs should be released from such obligations. For example, Telegate as a non-carrier would not fall under state jurisdiction and thus not be held accountable for such requirements as free call allowances, unlike the ILECs. Since many of these obligations are imposed upon the ILECs by the states, significant equity and jurisdictional questions are raised by this situation.

b. The presubscription process

If the Commission mandates presubscription for any N11 service, some process of presubscription for individual customers will have to be undertaken by every local carrier. Telegate proposes that balloting should be undertaken for 411 presubscription. However, such a process is extremely costly and imposes enormous burdens on the ILECs, as evidenced by the inter-LATA balloting process. Therefore, USTA opposes the use of balloting for any N11 presubscription. Alternative approaches, such as default and routing to the local carrier unless a customer requests a change, would be more practical methods of presubscription. The process will be no different or less burdensome or costly than the balloting process for presubscribed long distance carriers. While USTA strenuously opposes presubscription for any N11 service, if the Commission were to impose presubscription for DA, the policy reasons supporting 411 presubscription would similarly apply to long distance DA services.

Whatever process that might be adopted would require an extensive education process by the local carriers of the customers and result in substantial costs that must be recovered. Determinations of allocating non-presubscribed customers must be made. Additionally, questions of how non-LEC providers will be identified and participate in the balloting and allocation process must be considered.

c. Slamming

N11 presubscription opens up a whole new service to slamming abuses. The unauthorized and illegal switching of a customer's chosen N11 provider would be as difficult and complex of a problem as slamming of presubscribed interexchange carriers. It can be expected that ILEC customers will seek help from their carrier when slamming occurs, just as they have when long distance carriers are switched without the customer's authorization. Enforcement of long distance presubscription has been a monumental problem for the Commission; N11 presubscription can be expected to bring similar problems.

Such situations raise issues such as whether the local carriers will be required to freeze customers' presubscribed DA provider so that the provider is not inadvertently switched. Also, the question of whether local carriers would be required to notify customers when the DA provider is changed can be expected to be an issue.

d. The public benefit

Many significant problems with adopting Telegate's proposal, or any N11 presubscription for that matter, have been raised herein. These include the fact that the 411 market is already competitive, potential jurisdictional conflicts with the states,

significant technical impediments in implementing presubscription, and extensive costs that ultimately must be borne by the customer.

These problems, taken together, must be weighed against the public benefit that would inure from implementation of N11 presubscription policy. USTA believes that the problems far outweigh any public benefit. It should be recognized that a significant number of business customers already select their own DA service provider without mandated presubscription.

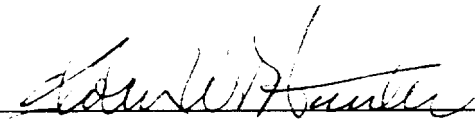
Conclusion

USTA urges the Commission to deny Telegate's request to require presubscription to the N11 code 411 for directory assistance or for any other N11 code. As more fully stated above, significant technical obstacles, costs and other policy considerations outweigh any public benefit that such presubscription would bring. Furthermore, the current Directory Assistance market is already competitive, and the states already exercise jurisdiction over Directory Assistance services.

Respectfully submitted,

UNITED STATES TELECOM ASSOCIATION

By



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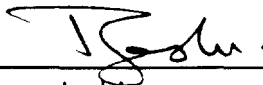
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May 30, 2000

CERTIFICATE OF SERVICE

I, Meena Joshi, do certify that on May 30, 2000, Comments of the United States Telecom Association were either hand-delivered, or deposited in the U.S. Mail, first-class, postage prepaid to the persons on the attached service list.



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